

The Washington City Council met in a regular session on Monday, May 9, 2016 at 5:30pm in the City Council Chambers at the Municipal Building. Present were: Mac Hodges, Mayor; Virginia Finnerty, Mayor Pro tem; Doug Mercer, Councilmember; Richard Brooks, Councilmember; Larry Beeman; Councilmember and William Pitt, Councilmember. Also present: Bobby Roberson, City Manager; Franz Holscher, City Attorney and Cynthia S. Bennett, City Clerk.

Mayor Hodges called the meeting to order and Councilmember Brooks delivered the invocation.

APPROVAL OF MINUTES:

By motion of Councilmember Pitt, seconded by Councilmember Beeman, Council approved the minutes of April 25th & April 26th, 2016 as presented.

APPROVAL/AMENDMENTS TO AGENDA

Mayor Hodges reviewed the requested amendments to the agenda:

- Add Eltha Booth – flag presentation
- Remove from Consent for discussion purposes: Consent Item A: Adopt/Approve – Budget Ordinance Amendment for Electric Cost of Service Rate Study and Approve purchase order

By motion of Councilmember Mercer, seconded by Councilmember Beeman, Council approved the agenda as amended.

RECOGNITION:

ELTHA BOOTH – FLAG PRESENTATION



Ms. Booth has requested the flag be flown on the tallest flagpole in the City – which is located on Respass Street.

CONSENT AGENDA:

By motion of Councilmember Mercer, seconded by Councilmember Brooks, Council approved the consent agenda as amended.

- A. *Item removed from Consent for discussion:* Adopt/Approve – Budget Ordinance Amendment for Electric Cost of Service Rate Study and Approve purchase order
- B. Approve – Purchase Order >\$20,000 *BCI Utility Construction in the amount of \$61,012 for the underground electric project in Country Club Estates

ITEM A FROM CONSENT: ADOPT/APPROVE – BUDGET ORDINANCE AMENDMENT FOR ELECTRIC COST OF SERVICE RATE STUDY AND APPROVE PURCHASE ORDER

Councilmember Mercer requested the budget ordinance for the cost of service study of the electric rates be removed as we had a study prepared in October. We should look at that cost of service study and make necessary adjustments in accordance with the October report.

By motion of Councilmember Mercer, seconded by Councilmember Beeman, Council agreed not to approve the budget ordinance amendment and purchase order for the electric cost of service study, but to spend some time reviewing the existing study and make the necessary adjustments to our rates based on the study that was prepared in October.

COMMENTS FROM THE PUBLIC:

Scott Campbell urged Council to reconsider funding for the façade grant program, saying it is a very effective program. He received over 50 signatures on a petition to keep the façade grant program.

Susan Zachary stated that she has nothing against Sound Rivers, but feels they need to pay for their rent and that all outside agencies should be treated the same. She recommends that Sound Rivers be given a period of 3 months to decide if they want to pay rent and if they don't then they should move someplace else.

Harrison Marks – Executive Director of Sound Rivers explained their organization was founded approximately 35 years ago and was formerly known as PTRF. They have occupied the existing space for probably the entire time they've been in existence. He stated the City has deemed space as surplus and Sound Rivers believes they are being good stewards of their donations.

PUBLIC HEARING 6:00PM– ZONING: NONE

OLD BUSINESS:

APPROVE – “SAVE THE POOL CAMPAIGN”

Background and Findings: The Pool Committee would like to enlist approval and support of a campaign to raise the necessary funding to replace the Dehumidification System at the Moore Aquatic and Fitness Center. The goal is to raise half of the \$300,000.00 to replace the system at the pool, in recognition of the City providing the additional match. The committee requests the campaign to run through December 31, 2016. The proposed ideas for fundraising are as follows; tile mural in the kiddie pool area, triathlon around the Sports Complex, swim-a-thons, and car washes. The Committee will be seeking support from corporate sponsors, as well as the Beaufort County Board of Education.

Kristi Roberson & Matt Rauschenbach explained that the pool committee has met and put together a proposal to try and raise half of the money for the Dectron unit. The pool committee wants to put together some fundraising efforts by joining forces with corporate sponsors, such as the Board of Education. Ms. Roberson explained that she and Mr. Rauschenbach met with the school board and presented a non-action item. The pool committee is interested in a tile fund raiser, summer kick-off, triathlon around the sports complex, swim-a-thon, car washes, raffle tickets, etc. Is Council willing to match the \$150,000 if the pool committee could raise the other \$150,000.

Councilmember Mercer stated he had no problem with the fundraising campaign as suggested. But inquired as to who authorized the ad in the paper on Saturday. He stated the ad was published prematurely being Council hasn't approved the fundraising efforts. The City Manager explained he authorized the ad.

Councilmember Brooks said the fundraising campaign was a good idea.

Mayor Pro tem Finnerty inquired if the proposal that was presented to the school board was agreed upon and do we have the agreement in writing. Kristi Roberson explained that Council would need to approve the corporate membership first and the school board has not approved the increase in the swim team usage fees. Matt Rauschenbach explained the revised numbers were presented so the school board could include the increases in their budget. Mayor Pro tem Finnerty asked why we don't charge admission fees for the swim meets. Ms. Roberson explained that the school board pays to rent the facility and we (the City) doesn't charge admission fee – but the group renting the facility could charge an admission fee if they chose to.

Councilmember Pitt asked if the Beaufort County Board of Commissioners had been approached for funding assistance. Mr. Rauschenbach noted the request is part of the outside agencies request and will be presented on May 24th. Ms. Roberson stated the pool committee will be meeting on Thursday to review the fundraising ideas.

A motion was made by Councilmember Brooks and seconded by Councilmember Beeman to support the “Save the Pool Campaign”.

Discussion was held regarding what happens if the committee doesn't raise \$150,000.

The City Manager explained an appropriation of \$500,000 is set aside in a facilities maintenance reserve fund. If the Dectron unit fails, staff would have to come back to Council to appropriate funding for the replacement of the unit.

Motion restated: A motion was made by Councilmember Brooks and seconded by Councilmember Beeman to support the "Save the Pool Campaign". (\$150,000 proposed to be raised by the "Save the Pool Campaign" and \$150,000 funded by the City for the replacement of the Dectron unit.) Voting in favor of the motion: Brooks, Pitt & Beeman. Voting against: Mercer & Finnerty. Motion carried 3-2.

PUBLIC HEARING 6:00PM – OTHER:
DISCUSSION: FISCAL YEAR 16-17 PROPOSED BUDGET

Mayor Hodges opened the public hearing and requested comments be limited to 3-4 minutes.

- Carl Crozier has been a member of the pool for over 10 years and volunteers for the swim meets. He supports the pool and sees it as a long-term investment. In the last year we had our first swimming championship.
- Scott Pake stated they have over 400 swimmers in 5 pools across eastern NC. 50 swimmers go to the pool 5 days a week for practice. They are all paying members of the pool that equates to \$12,000 per year. People are impressed with what is being accomplished at the pool. He is a county resident and a paying member. He would be in favor of the county giving financial support for the pool. We are paying dues set by City. We need to do more to get people there during the day. We need more families to join.
- Mayor Hodges said it is the function of the county to provide funding for the pool if the schools are using it at this magnitude. We need help with the funding.
- Mayor Pro tem Finnerty – the question isn't whether it's valuable, we know that it's important—we just need to know where the money is coming from – what are the supporters going to do to raise funds to save the pool. We all need to work together to find the financial solution.
- Councilmember Mercer said when the pool was built we were spending about \$75,000-\$100,000 to support pool. Now we are spending \$300,000 per year to support the pool. The membership has dropped.
- Mayor Hodges stated when the pool opened it was the only one around. We need to increase membership.
- Councilmember Beeman said we need to reiterate what we are voting on tonight. We are not voting tonight to close the pool, there is money in budget to keep pool open we are looking for help to provide funding to offset the cost for Dectron as well as ways to increase membership. Council voted tonight to support the "Save the Pool Campaign".
- Sandra Spence noted the pool is a wonderful facility as it provides physical and mental improvements for your body.
- Jim Biese explained things like this are happening all over the country – people are quitting. You are quitting on the kids. Don't quit – do what you have to do. The kids did their role by winning the state championship, now it's time to do your role.
- Susan Howard said her son brought home the championship. Washington High School hasn't brought home a swimming championship in over 30 years. She stated that none of the Councilmembers use the pool, but are members and don't even pay. She uses the pool for therapy. There is too much at stake for our community and our kids to close the pool. It's the job of City Council to get members in pool. She agreed that the county should help pay.
- Matt O'Neal said there's never enough money. Council finds money for things they want. The people want the pool – find the money.
- Crystal Andrews said her son Kevin Andrews sn on the swim team. Her daughter works at the pool teaching swim classes. It's a matter of public safety – children need to know how to swim. What will happen to WHS swim team if the pool is closed?
- Sue Paszts said she is a new member of the pool. It is a wonderful facility. We need leadership from the Council to keep the pool open.
- Marie Freeman Barber stated it takes a village to raise a child. We need longer hours for open swim, we need more than two hours a day. Open the facility for churches, day care, youth groups for swim lessons. Make sure fees are reasonable for all. Certain days – certain hours provide an open swim discount add short term memberships (3 months). Everyone has to get involved to make the pool a success.

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- Tristen Pake said his dream is to become an Olympic swimmer. It is very difficult to travel 45 minutes to Greenville every day to practice. Swimming is the best sport for mind, body and health.
 - Lydia Smith said she is part of the swim team that practices at pool. Don't close pool.
 - Oscar Warren – don't close pool.
 - Spencer Pake – it takes a lot of courage for children to speak in front of Council. This is the third time coming to Council speaking about saving the pool. The swim championship has put Washington on the map. He thanked Council for supporting the save the pool campaign. If the day comes and they might come up short – look at the pool as an investment for health, community and children. Another local pool just closed.
 - April Schmitt – said her son swims on the local swim team. Look at the number of lives that have been saved by learning how to swim at our pool.
 - David Mays –He understands that Council has to think about the money. The good news is that Dr. Phipps is going to try to get on board and support the pool.
 - Councilmember Mercer hopes everyone that is present tonight will attend the County Commissioner meeting on May 24th when they talk about funding for the pool.

There being no further comments, the public hearing was closed.

SCHEDULED PUBLIC APPEARANCES: NONE

CORRESPONDENCE AND SPECIAL REPORTS:

MEMO – “SAVE THE POOL CAMPAIGN” BOARD OF EDUCATION PRESENTATION
(accepted as presented)

Save the Pool Humidifier Fundraiser

To demonstrate the communities' support of the Hildred T. Moore Aquatic & Fitness Centers continued existence as an important element of the many fine recreational resources available to our schools & community in a limited funding availability environment the Pool Advisory Committee would like to request Council's support and approval of a campaign to raise the necessary funding to replace the facilities dehumidification system.

- System replacement cost \$300,000
- City funding not available
- Pool committee will raise \$150,000
 - o Fundraisers
 - o Sponsors (BC school system, McConnell's)
- City dollar for dollar match requested
- Time frame- complete by December 31, 2016

Beaufort County School System

- Contribute \$25,000 to save the pool capital campaign
- Swim team pool usage fee- increase from \$1,800 to \$7,560/year
- Corporate membership for school system employees:
 - o Individual rate/month \$25 (30% discount)
 - o Family 30 (30% discount)
 - o Application fee 0 (\$25 waived)
 - o Vidant Health wellness program participation at no charge

MEMO – CONTRACTS FOR PETROLEUM PRODUCTS
(accepted as presented)

The purpose of this request is to inform Council of contract commitments for petroleum product requirements for the City for a period of 2 years from July 1, 2016 through June 30, 2018.

Contract awarded as follows:

<u>Vendor</u>	<u>OPIS</u>	<u>Margin</u>	<u>Cost per Gallon</u>	<u>Estimated Usage</u>
A. <u>Potter Oil</u>				
87 Octane Gasoline (Tankwagon)	\$1.6098	\$.2044	\$1.8102	\$2,715.30
B. <u>Pitt Country Mart</u>				
Diesel (Transport)	\$1.2011	\$.0329	\$1.234	\$98,720.00
87 Octane Gasoline ethanol free (Transport)	\$1.6098	(\$.0346)	\$1.5752	\$315,040.00
Diesel (Tankwagon)	\$1.2122	\$.1799	\$1.3921	\$187,237.45
Kerosene 1-K	\$2.699	\$.0000	\$2.699	\$3,508.70
TOTAL				\$607,221.45

Price fluctuations will be governed by the bid margin above or below the OPIS Average Rack price for the commodity on the day March 29, 2016 at Selma, NC. The City will pay the Average Rack price for the commodity on the day of delivery plus or minus the margin bid on March 29, 2016.

Councilmember Mercer inquired why we were buying ethanol and non-ethanol fuel. If they're priced the same we should only buy non-ethanol. Matt Rauschenbach will follow up on this item.

REPORTS FROM BOARDS, COMMISSIONS AND COMMITTEES: NONE

APPOINTMENTS: NONE

OLD BUSINESS:

ADOPT – BUDGET ORDINANCE AMENDMENT TO APPROPRIATE FUNDS FOR THE PURCHASE OF 411 WEST 2ND STREET PROPERTY

BACKGROUND AND FINDINGS: This purchase secures the property on the north side of the library for parking or other expansion.

By motion of Councilmember Pitt, seconded by Councilmember Beeman, Council adopted a budget ordinance amendment to appropriate funds for the purchase of the 411 W 2nd St. property.

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2015-2016**

BE IT ORDAINED by the City Council of the City of Washington, North Carolina:

Section 1. That the following account numbers in the Miscellaneous department of the General Fund appropriations budget be increased in the amounts indicated to provide funding for the purchase of the 411 W 2nd St. property for the library.

10-00-4400-7100	Land Acquisition	\$ 70,000
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Section 2. That the following account numbers in the General Fund Estimated Revenues be increased in the amounts indicated.

10-00-3991-9910	Land Acquisition	\$ 70,000
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Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 9th day of May, 2016.

ATTEST:

s/Cynthia S. Bennett
City Clerk

s/Mac Hodges
Mayor

**AWARD/APPROVE – CONTRACT FOR FAIRFIELD INN & SUITES WATER & SEWER
AND APPROVE CORRESPONDING PURCHASE ORDER**

BACKGROUND AND FINDINGS: Originally, this project was bid on Thursday, April 14, 2016 and the low bidder withdrew his bid on Friday, April 15th; therefore, all bids were rejected and the project was re-advertised. On Tuesday, May 3, 2016, we received bids for this project. As noted on the attached bid tabulation sheet, AAHW Construction was the low bidder at \$108,000.00. This project is funded by a Rural Infrastructure Grant, the Developer and a local City match. Barring any unforeseen change orders, it should finish well under the budgeted amount.

By motion of Councilmember Beeman, seconded by Councilmember Brooks, Council awarded the contract for the Fairfield Inn & Suites Water & Sewer Project and approved the corresponding purchase order. *AAHW Construction - \$108,000.00

CITY OF WASHINGTON, N.C.
BID TABULATION SHEET
PROJECT: WATER & SEWER IMPROVEMENTS FAIRFIELD INN AND SUITES
LOCATION: MUNICIPAL BUILDING-COUNCIL CHAMBERS
BIDS OPENED: TUESDAY, MAY 3, 2016 @ 2:00 PM

CONTRACTOR ADDRESS				James I. Cayton P.O. Box 3198 New Bern, N.C.		Hendrix-Barnhill, Inc. P.O. Box 1904 Greenville, N.C.		Step Construction, Inc. 3423 Brothers Road LaGrange, N.C.		AAHW Construction 1935 W 5th St. Washington, N.C.	
LISC#/BID BOND				29341	5%	4883	5%	67060	5%	75351	Cert. Ck.
NO.	QTY.	UNIT	DESCRIPTION	UNIT	TOTAL	UNIT	TOTAL	UNIT	TOTAL	UNIT	TOTAL
1	520	LF.	8" WATERMAIN	25.00	13000.00	36.6923	19080.00	40.00	20800.00	25.00	13000.00
2	305	LF.	8" GRAVITY SEWER MAIN	65.00	19825.00	93.85	28625.00	53.00	16165.00	60.00	18300.00
3	70	LF.	BORE STEEL CASING		25000.00		35000.00		15000.00		17500.00
4	1	EA.	FIRE HYDRANT		4500.00		5025.00		5000.00		4500.00
5	3	EA.	MANHOLES		18000.00		8100.00		15000.00		13500.00
6	1	EA.	SERVICE TAP /BFP/METER		22000.00		11925.00		14000.00		11000.00
7	1	EA.	FIRE SPRINKLER TAP/BFP		25000.00		26390.00		26000.00		12000.00
8	1	EA.	POTABLE TAP/BFP/METER		25000.00		30840.00		28000.00		14200.00
9	2	EA.	SEWER CONNECTION		5000.00		25810.00		4000.00		4000.00
TOTAL BID					157,325.00		190,795.00		143,965.00		108,000.00

AUTHORIZE – MAYOR TO EXECUTE CIVIC CENTER LEASE

BACKGROUND AND FINDINGS: Current one year lease expires June 30, 2016. Proposed lease is for a one year term, fixes the City subsidy at \$35,000/year, and includes a 50/50 profit sharing provision between the two entities based on the change in net assets as reported in the independent auditors report.

The City Manager explained the contract was reduced to one year due to the thirty day public notice requirement, which was recently increased from ten days. We will negotiate a 3-5 year contract next time.

By motion of Councilmember Mercer, seconded by Councilmember Beeman, Council authorized the Mayor to execute the lease agreement for the Civic Center with the TDA.

NORTH CAROLINA
BEAUFORT COUNTY

THIS LEASE AND MANAGEMENT AGREEMENT ("Lease") is made and entered into as of the 1st day of July, 2016 by and between the CITY OF WASHINGTON, a body politic and corporate, existing under the laws of the State of North Carolina ("City"), and the CITY OF WASHINGTON TOURISM DEVELOPMENT AUTHORITY, a Public Authority under the Local Government Budget and Fiscal Control Act ("TDA"), (collectively may be referred to as the "Parties").

WITNESSETH

WHEREAS, the TDA was organized and established under the authority of North Carolina House Bill 592, Chapter 158, as ratified in the 1991 Session of the General Assembly of North Carolina, as later amended, and the City Charter and Code.

WHEREAS, the TDA operates subject to the provisions contained in the bill above referred to, as amended, the City Charter as well as City Code, and pursuant to by-laws adopted by the TDA for the operation of the TDA and the transaction of its business.

WHEREAS, the TDA's purpose is to promote travel and tourism – to advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, and engage in similar promotional activities that attract tourists or business travelers to the area.

WHEREAS, the TDA has the authority to spend money that, in the judgment of the TDA, is designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the City or to attract tourists or business travelers to the City.

WHEREAS, the TDA is authorized to contract with appropriate organizations or agencies to assist it in carrying out the above purposes.

WHEREAS, for the last ten (10) years the Parties have been party to Lease and Management Agreements, the most recent of which expires on June 30, 2016.

WHEREAS, the Parties have agreed to enter into this Lease whereby the City will continue to lease to the TDA the Washington Civic Center ("Civic Center") as described in Exhibit A attached hereto in accordance with the terms and provisions of this Lease and the TDA will continue to manage the Civic Center.

NOW THEREFORE, in consideration of the rents hereinafter agreed to be paid, the mutual covenants and agreements hereinafter recited and for the benefit of the public and the citizens of the City and Beaufort County generally, the receipt and legal sufficiency of which consideration is hereby acknowledged, the City does hereby lease and demise unto the TDA and the TDA does hereby lease and take as tenant from the City those certain premises (hereinafter called the "Premises") within the City and more particularly

described in Exhibit A attached hereto. Except as specifically provided for herein, the City reserves unto itself, the Sound Rivers, Inc. ("SRI"), and the public generally the right to use the parking areas and driveways adjoining the Civic Center building. Notwithstanding the foregoing, the TDA shall have the right to reserve the parking spots located to the North of the Peterson Building for specific periods of time as may be necessary in conjunction with specific Civic Center events after appropriate consultation and notice to any parties potentially affected thereby, including the City.

The TDA has carefully inspected the Premises and acknowledges that the same is in satisfactory condition for its use. Except as may be specifically provided for hereinafter and for those certain improvements that may be specifically addressed hereinafter, the City shall have no obligation to make any improvements to the Premises whatsoever and the TDA agrees to accept the same in its present condition, "as is."

TO HAVE AND TO HOLD said Premises unto the TDA upon the following terms and conditions.

1. **TERM.** The term of this Lease shall be for a period of one (1) year and will begin as of the 1st day of July, 2016 and shall end at 12:00 o'clock midnight on the 30th day of June, 2017.
2. **RENT.** As consideration for the leasehold interest granted herein for this term, the TDA agrees to be responsible for all management and operations of the Civic Center, including supervision of all Civic Center staff as hereinafter defined.
3. **ALLOCATION BY THE CITY.** The City agrees to allocate \$35,000.00 as part of this Lease to assist in the operation of the Civic Center and, to that end, agrees to pay the TDA the sum of \$2,916.67 per month on or before the 10th of each month beginning as of the 10th day of July, 2016. During the City's budget process, TDA may make specific requests to address maintenance items other than those described in Section 13. Within its recognized budget constraints, the City will use its best efforts to provide funding to address such maintenance items.
4. **PROFIT SHARING.** On or before October 31st of each year beginning in 2017 the change in net position of the Civic Center as reported in the independent auditor's report will be shared equally between the City and the TDA whether a gain or loss. If a gain, the TDA will remit payment to the City by October 31st and if a loss, the City will remit to the TDA by October 31st.
5. **CIVIC CENTER STAFF.** The employment of the TDA Director and Civic Center staff, including the specifics of all relevant employment terms and relationships, shall be governed by an Interlocal Agreement entered into between the Parties, which Interlocal Agreement is, or shall be, incorporated herein by reference as if fully set forth.

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6. **SOUND RIVERS, INC. LEASE.** The present lease between the City and SRI of the first floor entrance dedicated to SRI, the stairway dedicated to SRI, and the second story of that portion of the building commonly known as the Old Depot shall remain a direct lease between those entities and the TDA shall have no responsibility for the operation, maintenance, or liability associated with those premises so leased or any activities conducted thereon except as provided for herein. The City may continue such lease as well as renew the same for so long as the City desires. However, in the event the lease between the City and SRI is terminated and not renewed, then, in that event, the TDA shall have the right of first refusal to include such space within the property leased hereunder, unless the City decides to use such space for City purposes.
 7. **DEFAULT.**
 - a. The occurrence of one or more of the following events (hereinafter called "Events of Default") shall constitute a default by the TDA:
 - i. Failure to perform any provision of this Lease if the failure to perform is not cured within ten (10) days after written notice thereof has been given to the TDA and
 - ii. Dissolution of the TDA.
 - b. The occurrence of one or more of the following events of default shall constitute a default by the City:
 - i. Failure to perform any provision of this Lease if the failure to perform is not cured within ten (10) days after written notice thereof has been given to the City.
 8. **REMEDIES UPON DEFAULT.**
 - a. The City shall have the absolute right upon default by the TDA to enter the Premises without notice to vacate (any such right to which is hereby waived by the TDA) and re-let them, changing any and all locks on the Premises, all without being liable for forcible entry, trespass, or other tort.
 - b. The TDA shall have the absolute right upon default by the City to vacate the Premises, return all keys to the City and have no further obligation to manage and operate the Civic Center.
 - c. In the event either party shall exercise the above described remedies upon default, the TDA shall promptly deliver any and all of the TDA records, including bookings, necessary for the City to continue the management and operation of the Civic Center.
 9. **WAIVER.** No course of dealing or any delay on the part of either party in exercising any rights it may have under this Lease shall operate as a waiver of any of its rights hereunder nor shall any waiver of any prior default operate as a waiver of any subsequent default or defaults and no express waiver shall affect any condition, covenant, rule or regulation other than the one specified in such waiver and that one only for the time and in the manner specifically stated.
 10. **USE OF PREMISES.** The TDA shall use the Premises to further the purposes of the TDA as stated in its by-laws and for such purposes as may be associated with civic centers, comparable to similar communities and regional activities. The TDA shall be responsible for the entire management of said facility and shall have the right to establish reasonable regulations and policies, including any and all rates applicable to rent the same and for activities taking place within the same. The TDA shall be responsible for promoting said facility.
 11. **DISCRIMINATION.** The TDA, in its use, improvement, or operation of the Premises and facilities of the Civic Center, shall not, on the grounds of race, color, sex, or national origin, discriminate or permit discrimination against any person or group of persons in any manner prohibited by law and shall otherwise use the Premises in compliance with all other requirements imposed by or pursuant to Title VI of the Civil Rights Act of 1964 and as said regulations may be amended.
 12. **OWNERSHIP OF CONTENTS.** On July 1, 2006, the City conveyed the contents then located in the Civic Center to the TDA and presented the TDA with a Bill of Sale for the same. The Parties acknowledge that ownership of the contents located in the Civic Center at the expiration of the initial term, earlier termination, or expiration of any subsequent term, as the case may be, shall revert to and/or become the property of the City without compensation therefor and as further consideration for this Lease. In this regard, the TDA shall present a Bill of Sale for the same to the City at such time.
 13. **MAINTENANCE.** The City shall be responsible during the term of this Lease for major structural maintenance of the Civic Center structure and building including decking, flooring, roofing, HVAC, plumbing and electrical systems. The TDA shall be responsible for all other maintenance whatsoever in connection with said facility. Notwithstanding the foregoing, in the event a maintenance or repair issue or need arises, the TDA may contact the City Manager's office at the City concerning said issue or need and, if the City is capable of assisting the TDA in addressing the issue or need with minimal cost or manpower, in its sole discretion, the City will provide such assistance to the extent such assistance does not produce a major disruption in the City's normal operations as well as responsibilities and so long as such assistance is practicable. Nothing herein shall be construed to limit the TDA's maintenance obligation(s) as described herein. The City shall maintain the landscaping and parking areas in connection with its routine maintenance of the Peterson Building.
 14. **ASSIGNMENT AND SUBLETTING.** The TDA shall not assign this Lease or sublet the Premises without the prior written consent of the City.
 15. **UTILITIES AND OTHER SERVICES.** The TDA shall be responsible for and pay any and all charges for utilities as may be incurred on the Premises, including those above referenced premises leased to SRI by the City, during the term of this

Lease. The TDA shall not use or permit in the Premises any electrical device which, in the opinion of the electrical provider, will overload the building's electrical circuits.

a. TDA shall reach an agreement with SRI through which SRI will contribute, or reimburse TDA for SRI's share of utilities for so long as SRI leases the second story of the Old Depot from the City. The City will include a similar contractual obligation in its lease with SRI for the above referenced premises leased by the City to SRI.

16. **ALTERATIONS.** Other than routine improvements, repair and maintenance necessary to address ordinary, daily wear and tear, the TDA shall make no alterations, additions or improvements to the Premises without the prior written consent of the City. All alterations, additions and improvements made by, for or at the direction of the TDA shall become the property of the City and shall remain upon and be surrendered with the Premises as a part thereof at the expiration or earlier termination of this Lease without compensation therefor and as further consideration for this Lease. The TDA shall promptly pay and discharge any and all licenses, imposts, liens or other charges arising out of or in connection with the performance of any act required of or permitted the TDA hereunder and shall keep the Premises free and clear from any and all such liens or charges.

Upon reasonable notice to the TDA, the City shall have the right, but not the obligation, to make alterations, additions, or improvements to the Premises and the same shall, when made, be the property of the City and shall remain upon and be surrendered with the Premises as a part thereof at the expiration or earlier termination of this Lease.

17. **CITY'S RIGHT OF ENTRY.** The City Manager or his designee shall have the right to enter and to grant licenses to others to enter the Premises for such lengths of time as the City shall deem reasonable a) to inspect the Premises; b) to exhibit the Premises to prospective tenants or purchasers of the Premises; c) after reasonable notice to the TDA, to make alterations, additions, improvements and repairs to the Premises or to the building and to store necessary materials, tools and equipment for such alterations or repairs; d) after reasonable notice to the TDA, for any purpose which the City shall deem necessary for the operation and maintenance of the Premises, including building, and the general welfare and comfort of its tenants; e) after reasonable notice to the TDA, for the purpose of removing from the Premises any placards, signs, fixtures, alterations or additions not permitted by this Lease or applicable regulation; and f) after reasonable notice to the TDA, to abate any condition which constitutes a violation of any covenant or condition of this Lease.

18. **USAGE BY AND RATE FOR THE CITY.** The TDA agrees to allow any appropriate individual, group, or entity of the City to use the Premises as long as the same is not already reserved. Any such use by the City or its affiliates shall be consistent with the policies and procedures established by the TDA. The TDA agrees, as part of its rate structure, to provide a special rate for use by any appropriate individual, group, or entity of the City, which special rate shall not exceed 33% of the then current, full rate charged to other users of the Premises.

19. **INDEMNIFICATION OF THE CITY.** The TDA agrees to indemnify and defend the City and to save harmless the City, and the tenants, licensees, invitees, agents, servants and employees of the City against and from any and all claims by or on behalf of any person, firm or corporation arising by reason of injury to person or property occurring on the Premises or in the building occasioned in whole or in part by any act or omission on the part of the TDA or any employee, representative, agent, assignee or subtenant of the TDA, including any individuals who are actually City employees but who regularly perform functions for or duties assigned by the TDA such as the TDA Director and TDA staff or by reason of any unlawful use of the Premises or by reason of any breach, violation or non-performance of any covenant in this Lease on the part of the TDA to be observed or performed, and also by reason of any matter or thing growing out of the occupancy or use of the Premises by the TDA or any one holding under the TDA. The TDA agrees to pay the City promptly for all damage to the Premises or the building, which is not covered by insurance, and for all damage to tenants or occupants caused by the TDA's misuse or neglect of the Premises or the building or of its or their apparatus and appurtenances and the TDA agrees in any event to reimburse and compensate the City as additional rent within five (5) days of rendition of any statement to the TDA by the City for expenditures made by the City or for fines sustained or incurred by the City due to non-performance or non-compliance with or breach of or failure to observe any term, covenant or condition of this Lease upon the TDA's part to be kept, observed, performed or complied with.

The City shall not be liable to the TDA for any damage by or from any act or negligence of any co-tenant or other occupant of the building or by any owner or occupant of adjoining or contiguous property. Neither the City nor its agents shall be liable to the TDA or to any person, firm or corporation claiming through or under the TDA for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, glass, electricity, water, rain or snow or leaks from any part of the building or from the pipes, appliances or plumbing works or from the roof, street or subsurface or from any other place or by dampness or by any other cause of whatever nature, unless caused by or due to proven acts of negligence of the City. The City shall not be liable to the TDA or to any person, firm or corporation claiming through or under the TDA for any latent defect in the Premises or in the building.

20. **INDEMNIFICATION OF THE TDA.** The City agrees to indemnify and defend the TDA and to save harmless the TDA, including all tenants, licensees, invitees, agents, servants, and employees of the TDA against and from any and all claims by or on behalf of any person, firm or corporation arising by reason of the City's

negligent failure to adequately perform major structural maintenance of the Civic Center structure and building, including decking, roofing, flooring, HVAC, plumbing, and electrical systems. The indemnification provisions of this Section 20 shall not apply to any condition unless and until the TDA provides the City written notice that major structural maintenance is required for the Civic Center structure and building, including decking, roofing, flooring, HVAC, plumbing, and electrical systems.

21. **INSURANCE AND INSURANCE RATES.** Throughout the term of this Lease, City shall carry fire and extended coverage insurance insuring its interest in the building and the Premises, such insurance to be written by insurance companies and in amounts satisfactory to the City. Throughout the term of this Lease, the TDA shall carry fire and extended coverage insurance insuring its interest, if any, in improvements to or in the Premises, its contents, and its interest in its furniture, equipment, supplies or other property. Throughout the term of this Lease, the TDA shall carry public liability insurance insuring against all liability of the TDA and its authorized representatives including any liability whatsoever caused by any accident or other occurrence causing bodily injury or property damage to any person or property and arising out of and in connection with the TDA's use or occupancy of the Premises, such insurance to be written by insurance companies and in amounts satisfactory to the City. The TDA hereby waives any claim, right of action, or subrogation which it may have against the City for any loss or damage covered by such insurance.

The TDA shall not do or cause to be done or permit on the Premises anything deemed extra hazardous and the TDA shall not use the Premises or the building in any manner which will cause an increase in the premium rate for any insurance in effect on the Premises, building, or part thereof. If, because of anything done, caused to be done, permitted or omitted by the TDA or its agents, servants or employees, the premium rate for any kind of insurance in effect on the Premises shall be raised, the TDA shall pay the City on demand the amount of any such increase in premium. If the City demands that the TDA remedy the condition which caused any such increase in an insurance premium rate, the TDA shall remedy such condition within five (5) days after receipt of such demand.

22. **FIRE OR OTHER CASUALTY.** In the event that before or during the term of this Lease, the Premises or the building shall be damaged by fire or other casualty which renders the building, the Premises or any part of the building or the Premises untenantable, the City within twenty (20) days of such fire or casualty or of receipt of written notice from the TDA of such damage (whichever shall last occur) shall have the right to either 1) serve written notice upon the TDA of the City's intent to repair said damage or 2) if said damage renders so much of the Premises untenantable [in excess of fifty percent (50%) of the value of the premises] that repair would not be feasible, or if said damage shall have been occasioned by the act or omission of the TDA, its servants, agents, members or employees, serve written notice upon the TDA that this Lease is terminated,

provided, however, that the City shall not so terminate this Lease unless such repairs cannot be made within a period of sixty (60) days or unless at the time such notice is given there remains less than one hundred eighty (180) days during the unexpired current term of this Lease. If the City shall elect to repair such damage, such repairs shall be commenced within fifteen (15) days of notice to the TDA of such election and such repairs shall be completed within one hundred eighty (180) days of notice to the TDA of such election.

The other provision of this Section 22 notwithstanding, the City shall have no obligation to replace or repair any property in the building or on the Premises belonging to the TDA or to anyone claiming through or under the TDA nor shall the City have any obligation hereunder to replace or repair any property on the Premises which the City shall have the right to require the TDA to remove from the Premises or any alteration, addition or improvement made to the Premises by, for or at the direction of the TDA.

23. **QUIET ENJOYMENT.** The City agrees that the TDA, upon performing all the terms and conditions of this Lease, shall quietly have, hold and enjoy the Premises for the term aforesaid.

24. **NOTICES.** If to the TDA as follows:

Washington Tourism Development Authority
P.O. Box 1765
Washington, NC 27889

As to the City:

Attn: City Manager
City of Washington
P.O. Box 1988
Washington, NC 27889

25. **INTEGRATION AND BINDING EFFECT.** The entire agreement, intent and understanding between the City and the TDA is contained in the provisions of this Lease and any stipulations, representations, promises or agreements, written or oral, made prior to or contemporaneously with this Lease shall have no legal or equitable effect or consequence unless reduced to writing herein. This Lease shall be governed by and construed pursuant to the laws of the State of North Carolina.

26. **COMPLIANCE BY THE TDA WITH GOVERNMENTAL REGULATIONS.** The TDA shall comply with all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements and agreements with all governments, departments, commissions, boards, courts, authorities, agencies, officials, officers and other parties foreseen and unforeseen, ordinary or

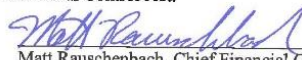
extraordinary, which now or at any time hereafter may be applicable to the Premises or any part thereof, or any of the adjoining property, or any use or condition of the Premises or any part thereof. The TDA shall comply with any and all local, State, Federal or other rules and regulations as well as all applicable environmental rules and regulations. In the performance of any acts required of or permitted by the TDA under any provision of this Lease, the TDA shall obey and comply with all lawful requirements, rules, regulations, and ordinances of all legally constituted authorities, existing at any time during the continuance of such performance, in any way affecting the Premises or the use of the Premises by the TDA, including but not limited to all wetland regulations, CAMA regulations, or other governmental setbacks. Such compliance shall include compliance by the TDA with requirements of the Occupational Safety and Health Act, and all amendments thereto, as the same applies to the TDA's use of the Premises.

(Signatures On Following Page)

IN WITNESS WHEREOF, the TDA has caused this Lease to be signed by its Chairperson and the City has caused this Lease to be signed by its Mayor by authority duly given as of the day and year first written above.

PRE-AUDIT CERTIFICATE
CITY OF WASHINGTON

This Agreement has been pre-audited pursuant to N.C.G.S. § 159-28 in the manner required by the Local Government Budget and Fiscal Control Act.


Matt Rauschenbach, Chief Financial Officer
City of Washington

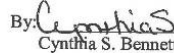
PRE-AUDIT CERTIFICATE
WASHINGTON TOURISM DEVELOPMENT AUTHORITY

This Agreement has been pre-audited pursuant to N.C.G.S. § 159-28 in the manner required by the Local Government Budget and Fiscal Control Act.


Neil Woolard
Treasurer

ATTEST:

CITY OF WASHINGTON

By:  (SEAL)
Cynthia S. Bennett, City Clerk

By:  (SEAL)
Jay MacDonald Hodges, Mayor


WASHINGTON TOURISM
DEVELOPMENT AUTHORITY

By:  (SEAL)
William Zachman, Chairperson

**NORTH CAROLINA
BEAUFORT COUNTY**

The undersigned, a Notary Public of the County and State aforesaid, hereby certifies that WILLIAM ZACHMAN personally appeared before me this day, and being duly sworn by me, acknowledged that he is Chairperson of the WASHINGTON TOURISM DEVELOPMENT AUTHORITY, and that by authority duly given and as the act of the Board the foregoing instrument was signed by him.

Witness my hand and notary seal this 18 day of May 2016.


Notary Public
My Commission expires: 12/14/2019



**NORTH CAROLINA
BEAUFORT COUNTY**

I, Reatha B. Johnson, a Notary Public of the State and County aforesaid, certify that CYNTHIA S. BENNETT personally appeared before me this day and acknowledged that she is City Clerk of the CITY OF WASHINGTON, a North Carolina municipal corporation, and by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by JAY MACDONALD HODGES, its Mayor, sealed with its corporate seal and attested by herself as its City Clerk.

Witness my hand and notary seal this 11 day of May 2016.

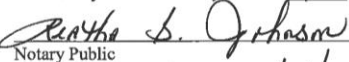
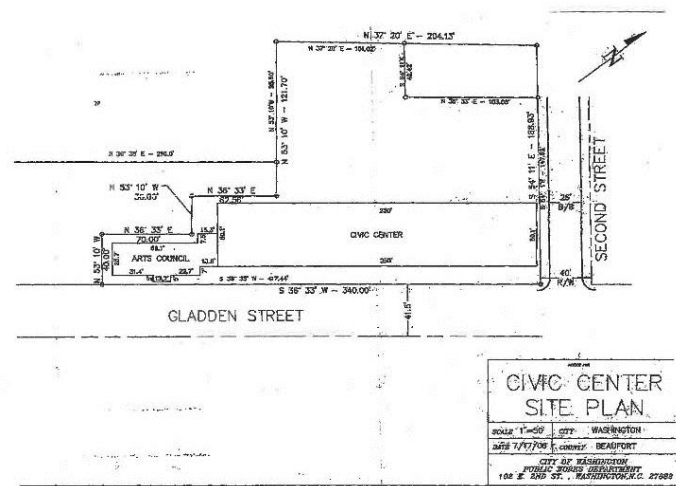

Notary Public
My Commission expires: 12/14/2019



EXHIBIT "A"

BEGINNING at the intersection of the right-of-way lines in the southwest quadrant of the intersection of Gladden Street and West Second Street; thence from said beginning point so located, along the west side of the right-of-way of Gladden Street, South 36° 33' West 340 feet; thence leaving the sideline of Gladden Street and running North 53° 10' West 40 feet; thence North 36° 33' East 70 feet; thence North 53° 10' West 30 feet; thence North 36° 33' East 62.56 feet; thence North 53° 10' West 121.70 feet; thence North 37° 20' East 204.13 feet to the sideline of Second Street; thence with Second Street South 54° 11' East 188.93 feet to the point of beginning as shown on the attached map prepared by the Public Works Department of the City of Washington.

SAVING AND EXCEPTING, HOWEVER, that portion of the above described property leased to SRI, including the existing SRI dedicated first floor entrance, the existing SRI dedicated stairway, and the second floor of a portion of the premises commonly known as Old Depot as depicted on the attached map as "Arts Council".



AUTHORIZE – CITY MANAGER TO ENTER INTO LEASE WITH SOUND RIVERS
BACKGROUND AND FINDINGS: The current lease with Sound Rivers expires June 30, 2016. There are no changes in the lease renewal.

Councilmember Mercer expressed concern that we have several organizations receiving rent free space at the Peterson Building. If they use our facilities rent free then this should show as contributions under the outside agency list as an in-kind contribution. We should delay action on this lease until we have an opportunity to contact Sound Rivers as well as the other tenants to see if they are willing to pay the \$1.75 per sq. ft.

Mayor Hodges suggested we should approve the lease tonight and review this topic later in the year in order to allow time for rent negotiations and for the tenants to prepare their budgets.

Councilmember Brooks noted the agreement is only for one year.

By motion of Councilmember Beeman, seconded by Councilmember Brooks, Council authorized the City Manager to enter into a lease with Sound Rivers Inc.

STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT

LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter referred to as "Lease") is made and entered into as of the 1st day of July, 2016, by and between the CITY OF WASHINGTON, a municipal corporation of the State of North Carolina (hereinafter referred to as "Lessor"), and SOUND RIVERS, INC., a non-profit corporation organized and existing under North Carolina law (hereinafter referred to as "Lessee" or "Sound Rivers").

WITNESSETH

WHEREAS, Lessor owns the building known to the parties as the Old Depot or Atlantic Coastline Depot located at 108 North Gladden Street, Washington, North Carolina (hereinafter referred to as "Old Depot") which consists of two stories. Lessee has occupied as well as utilized an existing first floor entrance dedicated to Sound Rivers, an existing stairway dedicated to Sound Rivers, and the second story of the Old Depot for a number of years (hereinafter referred to as "Premises").

WHEREAS, Lessee's purpose is to monitor, protect and enhance the Tar-Pamlico River and watershed while promoting environmental justice.

WHEREAS, Lessee has leased the Premises from Lessor for a number of years, has negotiated with Lessor, and desires to lease said Premises from Lessor for another year, which Premises will be utilized to further Lessee's above stated purposes.

WHEREAS, Lessor has found the Premises to be surplus to its current needs and desires to lease the same to Lessee for another year.

WHEREAS, the City Council passed a Resolution authorizing this Lease.

NOW, THEREFORE, subject to the terms and conditions hereinafter set forth, Lessor does hereby lease and let unto Lessee and Lessee hereby takes and accepts, together with all privileges and appurtenances thereto, the Premises. In consideration of the mutual promises as well as covenants herein contained, the benefits to Lessor as well as Lessee, the benefits to the public as well as citizens of Washington and Beaufort County generally, and for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties do hereby agree as follows.

1. Premises. The Premises is as defined hereinabove. Lessor hereby expressly grants to Lessee the right to use said existing Sound Rivers dedicated first floor entrance and the existing Sound Rivers dedicated stairway for access to the second story of the Old Depot at all times during the term of this Lease as well as the right to use, in common with the public generally, all parking and other common areas associated with the Old Depot.
2. Condition of Premises. Lessee's taking possession of the Premises shall be

conclusive evidence as against Lessee that Lessee has carefully inspected the Premises and accepted the Premises AS IS and that Lessor is under no duty to repair anything, furnish any services for, or otherwise improve in any way the Premises.

3. **Term.** The term of this Lease shall commence as of the 1st day of July, 2016 and shall continue on a month to month basis until the 30th day of June, 2017, unless terminated earlier by either party as herein provided. This Lease may be terminated upon thirty (30) days written notice by either party. Neither party shall have or make any claim, for damages or otherwise, upon the other should either party elect to exercise its right to early, unilateral termination hereunder.

4. **Rental.** In recognition of the benefits to the City of Washington and Beaufort County, their respective citizens, and the public at large that will result from the location and operation of Lessee in the Premises and the furtherance of Lessee's above stated purposes, Lessor shall waive any further sum due from Lessee for the use of the Premises, facilities, rights, services and privileges granted in this Lease.

5. **Assignment.** Lessee shall not assign its interest in this Lease, sublease any portion of the Premises, or permit third parties to occupy or use any portion of the Premises without Lessor's prior written consent, which consent may be withheld in Lessor's sole discretion. Notwithstanding the foregoing, Lessor expressly authorizes Lessee to utilize the Premises as herein described and expressly authorizes Lessee to provide such access to the Premises as is necessary to and for third parties to participate in, and contribute to, activities in furtherance of Lessee's above stated purposes.

6. **Use of Premises.** Lessee shall use the Premises during the term of this Lease for the purposes specified herein and none other. Lessee shall not make any unlawful or offensive use of the Premises and agrees to keep the same in good maintenance and aesthetically pleasing appearance.

7. **Care and Maintenance.** Lessee shall not be responsible for any maintenance to the exterior of the Premises. Lessor, in its sole discretion, shall be responsible for any maintenance to the exterior of the Premises. Lessee agrees, at Lessee's own expense and as additional consideration for this Lease, to maintain the interior of the Premises in an attractive manner and in compliance with any and all ordinances of the City of Washington. Lessee shall adequately secure the Premises when Lessee is not utilizing the same in order to prevent unsupervised access by the public. Lessee shall pay for the repair of any and all damages to the Premises caused by Lessee, its agents, members, employees, invitees, guests, customers, their respective successors and assigns, or any of them (hereinafter referred to as "Lessee's Repair Obligation"). With the exception of Lessee's Repair Obligation, the parties agree that, if any portion of the Premises (including any HVAC, electrical or plumbing units or systems) need repair or replacement during the term, neither party shall have the obligation to undertake such repairs or replacements. If either party elects to make such repairs or replacements, it will be on such terms as may be agreeable to Lessee and Lessor.

8. **Discrimination.** Lessee, in its use, improvement, or operation of the Premises, shall not, on the grounds of race, color, sex, or national origin, discriminate or permit discrimination against any person or group of persons in any manner prohibited by law and shall otherwise use the Premises in compliance with all other requirements imposed by or pursuant to Title VI of the Civil Rights Act of 1964 and as said regulations may be amended.

9. **Improvements and Alterations.** The parties recognize that Lessee has made and may need to make certain improvements and alterations to use the Premises in order to use the Premises as hereinbefore provided. In addition to any other permitting or approval process that may be required, Lessee shall submit a written plan, including sketch, for all such improvements and alterations to, and receive approval thereof from, the City Manager. Lessee shall continually modify any existing improvements and alterations to the Premises as may be necessary to conform with such approval. It is expressly understood that such approval is subject to modification, in the discretion of the City Manager, and that, if such approval is modified, Lessee shall modify its improvements and alterations as may be necessary to comply with such modified approval. Any alteration or improvement that is made by Lessee without consent from Lessor or that is inconsistent, in Lessor's sole discretion, with Lessor's consent shall constitute default hereunder. All such improvements and alterations made with Lessor's consent shall be properly maintained by Lessee, in Lessor's sole discretion.

a. All alterations, additions and improvements made by, for or at the direction of Lessee shall become the property of Lessor and shall remain upon and be surrendered with the Premises as a part thereof at the expiration or earlier termination of this Lease without compensation therefor and as further consideration for this Lease. Lessee shall promptly pay and discharge any and all licenses, imposts, liens or other charges arising out of or in connection with the performance of any act required of or permitted by Lessee hereunder and shall keep the Premises free and clear from any and all such liens or charges.

10. **City's Right Of Entry.** The City Manager or his designee shall have the right to enter and to grant licenses to others to enter the Premises for such lengths of time as Lessor shall deem reasonable a) to inspect the Premises; b) to exhibit the Premises to prospective tenants or purchasers of the Premises; c) after reasonable notice to Lessee, to make alterations, additions, improvements and repairs to the Premises or to the building and to store necessary materials, tools and equipment for such alterations or repairs; d) after reasonable notice to Lessee, for any purpose which Lessor shall deem necessary for the operation and maintenance of the Premises, including building, and the general welfare and comfort of its tenants; e) after reasonable notice to Lessee, for the purpose of removing from the Premises any placards, signs, fixtures, alterations or additions not permitted by this Lease or applicable regulation; and f) after reasonable notice to Lessee, to abate any condition which constitutes a violation of any covenant or condition of this Lease.

11. **Insurance.**

a. Lessee shall, at its expense, obtain and maintain for the duration of this Lease the following insurance coverages:

i. Statutory Workers' Compensation Insurance in amounts required by law and, unless exempted by applicable law, Employer's Liability Insurance at a minimum of \$500,000.00 for bodily injury by accident each employee and \$500,000.00 for bodily injury by disease each employee, with a policy limit of \$500,000.00 bodily injury by disease; and

- ii. Commercial General Liability Insurance, including contractual liability, personal and bodily injury, property damage, advertising injury, premises, and operations coverage at a minimum of \$1,000,000.00 per occurrence and \$1,000,000.00 aggregate.

The Commercial General Liability Insurance policy shall list Lessor as additional insured. Each such policy shall provide that it is not subject to cancellation or reduction in coverage except after thirty (30) days following notice to Lessor. Lessee shall deliver to Lessor certificates of insurance for all insurance policies required hereunder. Lessee shall, within a reasonable period of time prior to the expiration of any such policy, furnish Lessor with certificates of insurance evidencing renewal thereof. Lessor may, in its sole discretion, require Lessee to expand the form and/or increase the amounts of all such insurance.

- b. Throughout the term of this Lease, Lessor shall carry fire and extended coverage insurance insuring its interest in the building and the Premises, such insurance to be written by insurance companies and in amounts satisfactory to Lessor. Throughout the term of this Lease, Lessee shall carry fire and extended coverage insurance insuring its interest, if any, in improvements to or in the Premises, its contents, and its interest in its furniture, equipment, supplies or other property.

- c. Lessee shall not do or cause to be done or permit on the Premises anything deemed extra hazardous and Lessee shall not use the Premises or the building in any manner which will cause an increase in the premium rate for any insurance in effect on the Premises, building, or part thereof. If, because of anything done, caused to be done, permitted or omitted by Lessee or its agents, servants or employees, the premium rate for any kind of insurance in effect on the Premises shall be raised, Lessee shall pay Lessor on demand the amount of any such increase in premium. If Lessor demands that Lessee remedy the condition which caused any such increase in an insurance premium rate, Lessee shall remedy such condition within five (5) days after receipt of such demand.

12. **Waiver Of Subrogation.** Lessee releases and relieves Lessor and waives Lessee's entire rights of recovery against Lessor for loss or damage arising out of or incident to any of the perils insured against under this Lease as well as any of the perils insured against by any fire and/or extended coverage endorsement insurance policy Lessee might own, whether loss or damage is due to the negligence of Lessor or its agents, employees, and/or invitees. Lessee shall give notice to its insurance carriers that this waiver of subrogation is contained in this Lease and cause the carriers to accept this waiver of subrogation, to the extent permissible by applicable law.

13. **Fire or Other Casualty.** In the event that before or during the term of this Lease, the Premises or the building shall be damaged by fire or other casualty which renders the building, the Premises or any part of the building or the Premises untenable, Lessor shall, within twenty (20) days of actual notice of such fire or casualty, have the right to either 1) serve written notice upon Lessee of Lessor's intent to repair said damage or 2) if said damage renders so much of the Premises untenable that repair would not be feasible in Lessor's discretion, or if said damage shall have been occasioned by the act or omission of Lessee, its agents, members, employees, invitees, guests, or customers, serve written notice upon Lessee that this Lease is terminated without recourse on the part

of Lessee. If Lessor shall elect to repair such damage, such repairs shall be commenced as soon as is practicable after such election and Lessor shall pursue such repairs diligently.

The preceding paragraph notwithstanding, Lessor shall have no obligation to replace or repair any property in the building or on the Premises belonging to Lessee or to anyone claiming through or under Lessee nor shall Lessor have any obligation hereunder to replace or repair any property on the Premises which Lessor shall have the right to require Lessee to remove from the Premises or any alteration, addition or improvement made to the Premises by, for or at the direction of Lessee.

14. **Taxes and Assessments.** Lessee shall be responsible for and promptly pay before default any and all real and personal property taxes or special assessments, if any, that may be levied or assessed against the Premises or any improvements or other property therein, it being the mutual intention of the parties that Lessor shall not be required to pay any taxes on either real or personal property by reason of permitting Lessee to use said Premises as herein described. Lessee agrees to indemnify Lessor against any loss or liability resulting from any and all claims or liens in connection with such taxes and assessments.

15. **Utilities.** The provision of utilities (water, sewer, and electricity) as is customary for the Premises shall be continued. Any increase thereof shall require a separate agreement.

a. The first story of the Old Depot is leased to the City of Washington Tourism Development Authority ("TDA") by Lessor. Pursuant to the terms of said lease, TDA is responsible for the payment of any and all charges for utilities associated with the Old Depot (first and second stories). Lessee shall reach an agreement with TDA through which Lessee will contribute, or reimburse TDA for, a percentage of said charges for its share of utilities for so long as TDA leases the first story of the Old Depot from the City.

16. **Release, Waiver of Claims and Indemnity.** Lessee shall occupy the Premises at Lessee's own risk. Lessee for itself, its invitees, customers and guests and their respective parents, subsidiaries, affiliates, predecessors in interest, successors in interest, assigns and each of their respective officers, directors, employees, shareholders, agents, accountants, attorneys, insurance carriers, sureties, representatives, consultants and advisors, both past and present, hereby shall unconditionally waive, release, hold free and harmless, indemnify and defend Lessor and its present and former employees, officials, and elected officials in both their respective individual and official capacities, agents, personal representatives, attorneys, insurers, heirs, successors and assigns, and each of them, respectively, of, from, and for all and any manner of action or actions, cause and causes of action, claims, demands, costs, loss of services, expenses, attorney's fees, compensation and all consequential, compensatory, general, special and/or punitive damages or liabilities, known or unknown, which may result directly or indirectly from or be in any way related to, connected with or growing out of this Lease, any breach, violation, or nonperformance of any covenant in this Lease on the part of Lessee to be observed or performed, Lessee's occupancy as well as use of said Premises, including use by agents, members, employees, invitees, customers, or guests of Lessee, and Lessee's operations. This provision shall survive the termination of this Lease and shall be in full force and effect beyond the term or termination of this Lease, however terminated.

The City shall not be liable to Lessee for any damage by or from any act or negligence of any co-tenant or other occupant of the Old Depot or by any owner or occupant of adjoining or contiguous property. Neither the City nor its agents shall be liable to Lessee or to any person, firm or corporation claiming through or under Lessee for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, glass, electricity, water, rain or snow or leaks from any part of the building or from the pipes, appliances or plumbing works or from the roof, street or subsurface or from any other place or by dampness or by any other cause of whatever nature, unless caused by or due to proven acts of negligence of the City. The City shall not be liable to Lessee or to any person, firm or corporation claiming through or under Lessee for any latent defect in the Premises or in the building.

17. **Notices.** Notices provided for in this Lease shall be sufficient if sent by registered mail, postage prepaid, and addressed as follows:

TO LESSOR:

Attn: City Manager
City of Washington
Post Office Box 1988
Washington, NC 27889

TO LESSEE:

Attn: Executive Director
Sound Rivers, Inc.
P.O. Box 1854
Washington, NC 27889

Any notice so given to either party hereunder shall be conclusively considered to have been received on the third business day following the proper mailing thereof. Each party shall give written notice to the other of any change of address at least thirty (30) days in advance of the date such change is to become effective, whereupon the address so given shall control.

18. **Adherence to Regulations.** Lessee shall comply with all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of and agreements with all governments, departments, commissions, boards, Courts, authorities, agents, officials, officers and other parties, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Premises, Lessee and Lessee's use of the Premises. Further, Lessee shall comply with any and all local, state, federal or other rules and regulations as well as all applicable environmental rules and regulations, including but not limited to such rules and regulations regulating hazardous or similar substances or conditions, their storage or disposal. Such compliance shall include compliance by Lessee with the requirements of the Occupational Safety and Health Act, and all amendments thereto, as the same applies to Lessee's use of the Premises. Lessee shall not intentionally or knowingly use the Premises for any purpose or in any manner in violation of any law, ordinance, rule, or regulation adopted or imposed by any federal, state, county, municipal body, or other governmental agency. Lessee further agrees to indemnify and hold the City harmless for any and all damage of any kind arising from Lessee's failure to comply with the aforementioned rules and regulations, including, but not limited to, the cost of clean-up, restoration fees, mitigation costs, and attorney's fees caused or occasioned by Lessee. Nothing in this Lease shall be construed to obligate Lessee to make any improvements to the Premises in order for the Premises to comply with any applicable state, local, or federal laws, rules or regulations.

19. **Reports.** If requested by the City Manager, Lessee shall provide a report of such matters involving the Premises as may be required by the City Manager.

20. **Relationship of Parties.** In carrying out the terms and conditions of this Lease, Lessee is an independent party from Lessor and is not an agent or employee of Lessor. Nothing contained in this Lease shall create or be construed as creating a partnership, joint venture, or employee relationship in the eyes of the law between Lessor and Lessee.

21. **Waiver.** No waiver of any condition, covenant or restriction of this Lease by either party shall be deemed to imply or constitute a further waiver of the same or any other condition, covenant or restriction of this Lease.

22. **Surrender of Possession, Holding Over.** Upon the expiration or any other termination of this Lease, Lessee shall quit and surrender the Premises to Lessor. Within thirty (30) days of any such expiration or any other termination of this Lease, Lessee shall retain ownership of and shall remove any items of personal property and shall, upon notice from Lessor, remove any and all improvements and alterations described in such notice, including fixtures, made or placed on or about the Premises by Lessee and, consistent with such notice, return the Premises to its condition prior to any installation or placement of such item(s) or making of any such improvements or alterations thereon. Failure by Lessee to perform the obligations contained in this numbered paragraph 22 within said thirty (30) day period shall entitle Lessor to remove and dispose of said personal property, improvements, and alterations and recover all of its costs and expenses in doing so from Lessee. If Lessee shall remain in possession of the Premises or any part thereof after the expiration of the term of this Lease, either with or without Lessor's acquiescence, Lessee shall be deemed a tenant at will, and such holding over by Lessee shall in no way constitute a renewal of this Lease.

23. **Default.**
- a.

The occurrence of one or more of the following events (hereinafter called "Events of Default") shall constitute a default by Lessee:

i.

Failure to perform any provision of this Lease if the failure to perform is not cured within ten (10) days after written notice thereof has been given to Lessee;

ii.

Lessee files a voluntary petition in bankruptcy including a reorganization plan; makes a general or other assignment for the benefit of creditors; is adjudicated as bankrupt or if a receiver is appointed for the property or affairs of Lessee and such receivership is not vacated within sixty (60) days after the appointment of such receiver; and

iii.

Dissolution of Lessee.

b.

The occurrence of one or more of the following events of default shall constitute a default by Lessor:

i.

Failure to perform any provision of this Lease if the failure to perform is not cured within ten (10) days after written notice thereof has been given to Lessor.
24. **Remedies Upon Default.**

a.

Lessor shall have the absolute right upon default by Lessee to

i.

terminate this Lease;

ii.

enter the Premises without notice to vacate (any such right to which is hereby waived by Lessee), change any and all locks on the Premises, and re-let the Premises all without being liable for forcible entry, trespass, or other tort; and

iii.

collect from Lessee any damages resulting from Lessee's default, including the costs of repairing the Premises, and any reasonable attorney's fees incurred as a result of default.

Upon any reentry pursuant to this section, Lessor may, without liability to anyone, remove any personal property located on or about the Premises, whether belonging to Lessee or otherwise, and dispose of the personal property as Lessor deems proper or to store such property at Lessee's expense. Lessor is further authorized to sale or cause to be sold any such personal property so removed, the proceeds from which may be used to pay any storage charges against the property or to satisfy any delinquent rental or other monetary obligation due Lessor by Lessee.

b.

Lessee shall have the absolute right upon default by Lessor to vacate the Premises and return all keys to Lessor.

25. **Illegal Provisions, Governing Law.** If any provision of this Lease shall be declared illegal, void, or unenforceable, the other provisions shall not be affected, but shall remain in full force and effect. This Lease shall be governed by and construed in accordance with the laws of North Carolina.

26. Entire Agreement. This Lease contains the entire agreement between the parties hereto with respect to the Lessee's use and occupancy of said Premises and all prior and contemporaneous agreements are merged herein, and this instrument shall not be altered or modified except in writing signed by all parties hereto.

(The Remainder Of This Page Intentionally Left Blank.)

IN WITNESS WHEREOF, after due authority given, the parties hereto have executed this Lease as of the date first above written.

PRE-AUDIT CERTIFICATE

This Lease has been pre-audited in accordance with North Carolina General Statute § 159-28 and in the manner required by the Local Government Budget and Fiscal Control Act.

Matt Rauschenbach
Matt Rauschenbach, Chief Financial Officer
City of Washington


Cynthia S. Bennett, City Clerk
City of Washington

LESSOR:
CITY OF WASHINGTON


By: Bobby Roberson
Bobby Roberson, City Manager
City of Washington

LESSEE:
By: Harrison Marks
Harrison Marks, Executive Director
Sound Rivers, Inc.

STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT

I, Reatha B. Johnson, a Notary Public of the State and County aforesaid, certify that CYNTHIA S. BENNETT, personally appeared before me this day and acknowledged that she is City Clerk of the CITY OF WASHINGTON, a North Carolina municipal corporation, and as the act of the corporation, the foregoing instrument was signed in its name by BOBBY ROBERSON, its City Manager, sealed with its corporate seal and attested by herself as its City Clerk.

WITNESS my hand and official seal, this the 11 day of May

Reatha B. Johnson
NOTARY PUBLIC


My Commission Expires: 12/14/2019

STATE OF NORTH CAROLINA
COUNTY OF Beaufort

Before me, a Notary Public in and for the County and State aforesaid, this day personally appeared HARRISON MARKS and acknowledged that he is Executive Director of SOUND RIVERS, INC., and acknowledged the due execution by him of the foregoing instrument for the purposes therein expressed.

Witness my hand and official seal, this the 19th day of May, 2016

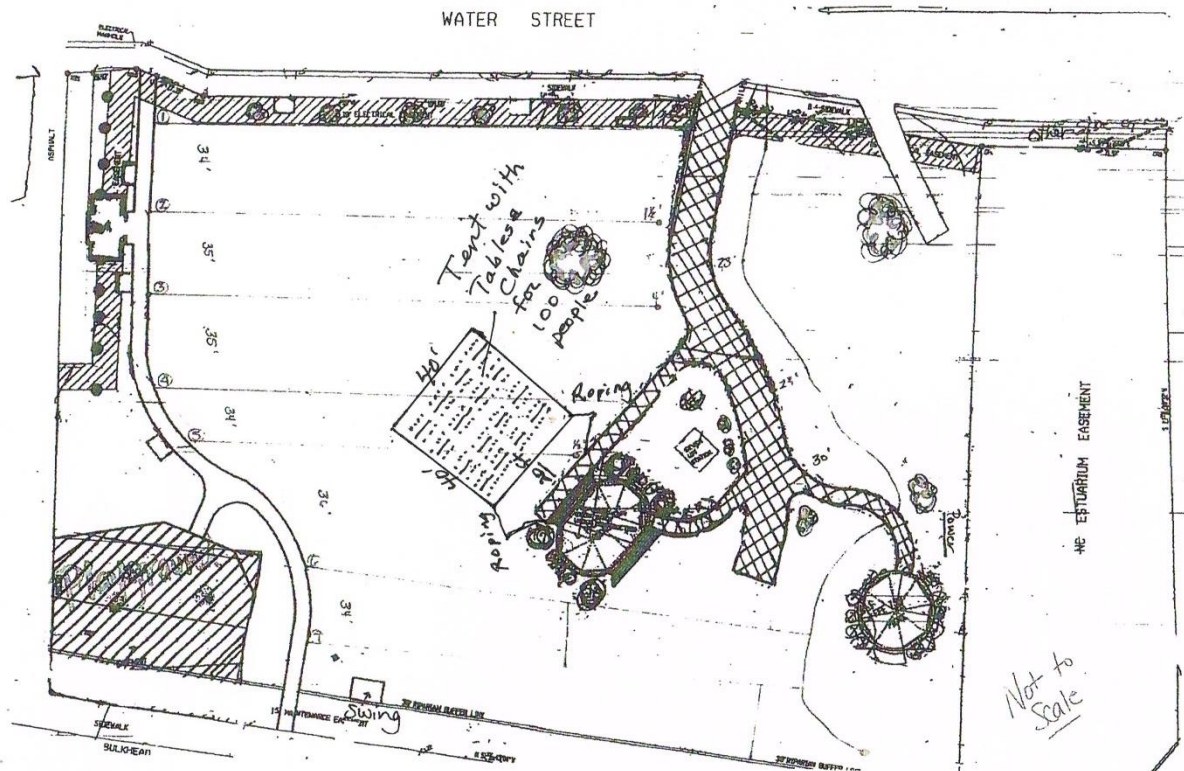
Kevin W. Worland
NOTARY PUBLIC

My Commission expires: 05/28/2018

NEW BUSINESS:
REQUEST – SHARON ALLIGOOD, UNITED STATES POWER SQUADRON – BEER GARDEN AT FESTIVAL PARK EVENT

Sharon Alligood and the United States Power Squadron requested approval to serve alcoholic beverages for an event at Festival Park on 6/18/2016, between the hours of 6:00pm and 9:00pm. Attached is a diagram of the Stage and a tent that will be utilized for this event.

United States Power Squadron, District 27 will hold a Rendezvous in Washington NC 6/17 - 6/19 with approximately 100 members in attendance from across North Carolina. Pamlico Sail and Power Squadron will be hosting this event. As part of that Rendezvous, we have entered into a contract with the City of Washington, Parks and Recreation Department, to utilize the main stage and the Festival Park for an all-day event beginning with a Flag Raising Ceremony at 9:00 am. concluding that evening with a catered dinner and service of alcoholic beverages to our members. ABC permits and insurance certificates are in the application stage and will be provided prior to the event. United States Power Squadrons is a Non-Profit Organization.



Councilmember Mercer asked if the event will be limited to Power Squadron members. Sharon Allgood replied the event is by invitation only.

By motion of Councilmember Beeman, seconded by Councilmember Brooks, Council agreed to grant the request to Power Squadron to allow the serving of alcoholic beverages at Festival Park (6/18/2016 between the hours of 6:00pm and 9:00pm).

Ms. Allgood asked for a waiver of the requirement of having police officers at the event even though alcohol is being served. Councilmember Brooks stated that we need to have the same rules for every event. Director Drakeford explained normally two officers are required, but this event could be managed with one officer at a rate of \$45 per hour.

ADOPT – OTHER ATTORNEY FEE BUDGET ORDINANCE AMENDMENT

BACKGROUND AND FINDINGS: The \$10,000 budget for other attorney fees has been exhausted, a bill is outstanding, and the case is yet to be resolved.

Councilmember Mercer asked if \$15,000 will get us through the remainder of the fiscal year. Mr. Roberson advised that it would not cover all of the expenses.

By motion of Councilmember Beeman, seconded by Councilmember Brooks, Council adopted a Budget Ordinance Amendment to provide additional funds for the legal defense of the Don Stroud zoning appeal.

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2015-2016**

BE IT ORDAINED by the City Council of the City of Washington, North Carolina:

Section 1. That the Estimated Revenues in the General Fund be increased in the amount of \$15,000 in the account Fund Balance Appropriated, account number 10-00-3991-9910.

Section 2. That the following account numbers in the Legal department of the General Fund appropriations budget be increased in the amounts indicated for anticipated legal expense to defend the Don Stroud zoning appeal:

10-00-4150-0401	Other Legal Fees	\$ 15,000
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Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 9th day of May, 2016.

ATTEST:

s/Cynthia S. Bennett
City Clerk

s/Mac Hodges
Mayor

ANY OTHER ITEMS FROM CITY MANAGER: None

ANY OTHER BUSINESS FROM THE MAYOR OR OTHER MEMBERS OF COUNCIL:

Mayor Hodges discussed the possibility of the City applying for a Tiger Grant to assist with the streetscape project downtown with a reference to utility projects. Councilmember Mercer will follow up with Mid-East regarding the Tiger grant and any other grants that could assist with this project.

CLOSED SESSION: UNDER NCGS § 143-318.11 (A)(6) PERSONNEL

By motion of Councilmember Pitt, seconded by Councilmember Brooks, Council entered into closed session under NCGS § 143-318.11 (A)(6) Personnel at 7:07pm.

By motion of Councilmember Brooks, seconded by Councilmember Pitt, Council agreed to come out of closed session at 7:22pm.

ADJOURN

By motion of Councilmember Pitt, seconded by Councilmember Brooks, Council adjourned the meeting at 7:25pm until Monday, May 23, 2016 at 5:30pm in the Council Chambers at the Municipal Building.

Cynthia S. Bennett, MMC
City Clerk